

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE:

MOUSSA BAMBA AND
HORTENSE GISELE BAMBA,

Debtors.

Case No. 17-31607-JCW
Chapter 7

MOTION FOR AN ORDER PURSUANT TO BANKRUPTCY CODE §105
AND B.R. 9019 AUTHORIZING AND APPROVING SETTLEMENT OF CONTROVERSY

NOW COMES the Trustee, A. Burton Shuford, by and through his undersigned attorney, and moves this Court for an Order, pursuant to Bankruptcy Code §105 and B.R. 9019, authorizing and approving the Settlement Agreement by and between A. Burton Shuford, Trustee in Bankruptcy for Moussa Bamba and Hortense Gisele Bamba (the "Debtors") and Obroh Zaguehi ("Zaguehi") and respectfully represents:

BACKGROUND

1. On September 30, 2017, (the "Petition Date"), the Debtors filed a voluntary bankruptcy petition under Chapter 7 of the United States Bankruptcy Code with the Western District of North Carolina thereby creating a bankruptcy estate (the "Estate") and A. Burton Shuford was appointed Chapter 7 Trustee.

2. The Trustee and Zaguehi have engaged in discussions and negotiations in an attempt to settle and resolve the various matters in contention between them and have agreed to the Settlement Agreement (the "Settlement") entered into by and between the Trustee and Zaguehi annexed hereto as Exhibit "A."

3. This Court has jurisdiction to adjudicate the issues raised in this Motion pursuant to 28 U.S.C. Section 157 and 28 U.S.C. Section 1334; and

4. Venue for this matter is proper in this Court pursuant to 28 U.S.C. Section 1409.

RELIEF REQUESTED

5. Pursuant to this Motion, the Trustee requests that this Court enter an order pursuant to Bankruptcy Code Section 105 and Rule 9019 of the Federal Rules of Bankruptcy Procedure, providing for the settlement of this controversy upon the conditions set forth in the Settlement.

6. The Debtors' schedules filed with their petition disclose that the Male Debtor and Zaguehi were co-owners of real property with an address of 205 Oakton Glen, Charlotte, NC 28262 (the "Real Property").

7. After negotiations with Zaguehi and factoring in potential litigation costs and the risks of litigation, the Trustee and Zaguehi have resolved the Estate's interest in the Real Estate upon

the terms and conditions as set forth in the Settlement. More specifically, pursuant to the Settlement, the Trustee and Zaguehi agree that Zaguehi will pay to the Trustee the sum of \$9,000.00 upon the terms and conditions set out in the Settlement, in final settlement of the Estate's interest in the Real Estate. In order for this Settlement to bind any of the parties to it, it must be approved by the Bankruptcy Court in this case.

BASIS FOR RELIEF REQUESTED

8. The "approval of [a] proposed compromise and settlement is a matter of this Court's sound discretion." In re Arrow Air, Inc., 85 B.R. 886, 891 (Bankr. S.D. Fla. 1988). In passing upon a proposed settlement, "the bankruptcy court does not substitute its judgment for that of the Trustee [or debtor in possession]". Depo v. Chase Lincoln First Bank (In re Depo), 77 B.R. 381, 384 (citations omitted). Nor is the bankruptcy court to "decide the numerous questions of law and fact raised by [objectors] but rather to canvass the issues and see whether the settlement fall[s] below the lowest point in the range of reasonableness." Cosoff v. Rodman (In re W.T. Grant Co.), 699 F.2d 599, 608 (2nd Cir. 1983), cert denied, 464 U.S. 822 (1983) (quoting Newman v. Stein, 464 F.2d 689, 693 (2d Cir.), cert denied, 409 U.S. 1039 (1972)). See In re Holywell Corporation, et al., 93 B.R. 291, 294 (S.D. Fla 1988) ("In order to exercise this discretion properly, the Court must consider all the relevant facts and evaluate whether the compromise suggested falls below the 'lowest point in the range of reasonableness'" (quoting In re Teltronics Services, Inc., 762 F. 2d 185, 189 (2d Cir 1985)). In passing upon the reasonableness of a proposed compromise, the Court "may give weight to the opinions of the Trustee, the parties and their counsel." In re Bell & Beckwith, 93 B.R. 569, 574 (Bankr. N.D. Ohio 1997).

9. The Trustee has investigated the value of the Real Property and has been advised by his real estate agent that the Real Property would sell for approximately \$160,000. The Real Property is subject to a mortgage with a balance of approximately \$125,000. In light of the costs of litigation necessary to obtain authority to sell the Real Property and the costs of sale of the Real Property, the Trustee has elected to enter into the annexed Settlement. The resolution of these claims is far more expedient and cost effective than litigation. As a result, the Trustee believes that the proposed Settlement is fair and reasonable and in the best interest of the estate.

10. Accordingly, and based upon the foregoing, the Trustee respectfully requests that the Court authorize and approve the Settlement as being fair and reasonable and in the best interest of the estate.

WHEREFORE, the Trustee prays for the entry of an order authorizing and approving the Settlement Agreement annexed hereto as Exhibit "A", upon the terms and conditions set forth therein and authorizing the Trustee to execute a limited warranty trustee's deed conveying the interest of the Estate in the Real Estate to Zaguehi.

This the 4th day of September, 2019.

/s/ A Burton Shuford

A. Burton Shuford, NCBN 10035

Attorney for the Trustee

4700 Lebanon Road, Suite A-2

Mint Hill, NC 28227

Direct Dial: (980) 321-7000; bshuford@abshuford.com

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE:

MOUSSA BAMBA AND
HORTENSE GISELE BAMBA

Case No. 17-31607-JCW
Chapter 7

Debtors.

SETTLEMENT AGREEMENT

This Settlement Agreement ("Agreement") is made and entered into this ____ day of August, 2019, by and between A. Burton Shuford ("Trustee"), Trustee in Bankruptcy for Moussa Bamba and Hortense Gisele Bamba (the "Debtors") and Obroh Zaguehi ("Zaguehi").

WHEREAS, the Debtors filed a petition under Chapter 7 of the United States Bankruptcy Code with the United States Bankruptcy Court for the Western District of North Carolina on September 30, 2017 thereby creating a Chapter 7 Bankruptcy Estate (the "Estate") and A. Burton Shuford was appointed Chapter 7 Trustee;

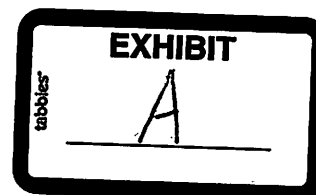
WHEREAS, the Debtors' schedules filed with their petition disclosed that the Male Debtor and Zaguehi were co-owners of real property with an address of 205 Oakton Glen, Charlotte, NC 28262 (the "Real Property"). The Trustee has a duty to liquidate the Male Debtor's interest in the Real Property for the benefit of the Estate;

WHEREAS, Zaguehi has filed a petition under Chapter 13 of the United States Bankruptcy Code with the United States Bankruptcy Court for the Western District of North Carolina on February 23, 2018, Case No. 18-30303; and,

WHEREAS, the Trustee and Zaguehi have engaged in discussions and negotiations in an attempt to resolve the Trustee's demand that the Real Property be sold so that the Trustee can monetize the Male Debtor's interest in the Real Property for the benefit of the Estate without the necessity of further litigation and the Trustee and Zaguehi have agreed to settle such demand, upon the terms and conditions set forth in this Agreement.

NOW, THEREFORE, it is hereby agreed by and between all parties as follows:

1. That Zaguehi will pay to the Trustee, in full satisfaction of the Trustee's demand as noted above, the sum of \$9,000.00 (the "Settlement Amount"). It is acknowledged that the Settlement Amount will be paid through Zaguehi's Chapter 13 plan, but if Zaguehi's Chapter 13 case is dismissed, or the Settlement Amount is otherwise not paid in full by through the Chapter 13 plan, then any balance remaining due to the Estate will become immediately due and owing by Zaguehi.



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2. That should Zaguehi default in the above payment, then the Trustee shall give ten days written notice of such default to Zaguehi's attorney and Zaguehi at the address set out in the Bankruptcy Court records.

3. Should Zaguehi fail to cure the default within ten days of the date of the Trustee's notice thereof, the Trustee may, in his sole discretion:

- a) Cancel this agreement; and
- b) File an Adversary Proceeding in order to obtain court authority to sell the Real Estate.

4. Upon the Trustee's receipt of the payment from Zaguehi and the final payment clearing the account on which it was drawn, and the Trustee having received the funds in the Estate bank account, and Zaguehi otherwise not being in default of this Settlement Agreement, the Trustee shall be deemed to have waived and released any claim that the Trustee or the Estate has to force the sale of the Real Estate.

5. Upon receipt of the final payment clearing the account in which it was drawn and the Trustee having received the funds in the Estate bank account, and Zaguehi otherwise not being in default of this Settlement Agreement, the Trustee shall execute a limited warranty Trustee's Deed transferring the Bamba Estate's interest in the Real Property to Zaguehi.

6. The Trustee shall file the appropriate motion with the U.S. Bankruptcy Court to obtain approval of this Agreement. The Trustee believes that this is a fair and reasonable settlement and will inure to the benefit of the Estate.

7. This Agreement shall be binding upon the Trustee, the Estate, Zaguehi and their heirs, successors and/or assigns and shall inure to the benefit of the Trustee, the Estate and Zaguehi and their heirs, successors and/or assigns upon its approval by the U.S. Bankruptcy Court.

8. The Trustee and Zaguehi hereby mutually acknowledge and represent that they have been fully advised by their respective legal counsel of their rights and responsibilities under this Agreement, and that they have read, know and understand completely the contents hereof, and that they have voluntarily executed the same.

9. That each party hereto shall bear its, his or her own costs and attorney's fees incurred.

10. This Agreement constitutes the entire agreement and understanding between the parties relating to the subject matter contained herein, and this Agreement may not be altered, amended or modified in any respect or particular whatsoever, except by a writing duly executed by all parties hereto.

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11. This Agreement may be executed in counterparts, each of which shall be an original, so that all of which taken together shall constitute one and the same instrument.

12. The U.S. Bankruptcy Court for the Western District of North Carolina shall retain jurisdiction over the enforcement of this Agreement.

IN WITNESS WHEREOF, the parties hereto have caused this Settlement Agreement to be executed as of the day and year first above written.

/s/ A. Burton Shuford

A. Burton Shuford, N.C. Bar #10035

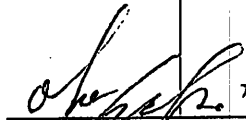
Attorney for the Trustee

4700 Lebanon Road, Suite #A-2

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Obroah Zaguehi

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE:

MOUSSA BAMBA AND
HORTENSE GISELE BAMBA,

Debtors.

Case No. 17-31607-JCW
Chapter 7

NOTICE OF MOTION FOR AN ORDER PURSUANT TO BANKRUPTCY CODE §105
AND B. R. 9019 AUTHORIZING AND APPROVING SETTLEMENT
OF CONTROVERSY AND NOTICE OF OPPORTUNITY FOR HEARING

A. Burton Shuford, Trustee, has filed papers with the Court as described above. A copy of this Motion is attached to this Notice. **Your rights may be affected.** **You should read these papers carefully and discuss them with your attorney, if you have one in this bankruptcy case. (If you do not have an attorney, you may wish to consult one.)** If you do not want the court to grant relief requested in the attached Motion, or if you want the court to consider your views on the Motion, then **within 14 days of this notice**, you or your attorney must file with the Court a written response to the Motion which response must comply with local Bankruptcy Rule 9013-1 at:

**Clerk United States Bankruptcy Court
401 West Trade Street
Charlotte, NC 28202**

If you mail your response to the Court for filing, you must mail it early enough so that the court will receive it on or before the date stated above. You must also mail a copy to:

**A. Burton Shuford
4700 Lebanon Road, Suite A-2
Mint Hill, NC 28227**

No hearing will be held on this Motion unless a response is timely filed and served, in which case, the Court will conduct a hearing on **October 16, 2019 at 9:30 a.m.**, at the United States Bankruptcy Court, 401 West Trade Street, Charlotte, North Carolina. No further notice of this hearing will be given. If you or your attorney do not take these steps, the Court may decide that you do not oppose the relief sought in the Motion and may enter an order granting the requested relief.

This the 4th day of September, 2019.

/s/ A Burton Shuford
A. Burton Shuford, NCBN 10035
Attorney for the Trustee
4700 Lebanon Road, Suite A-2
Mint Hill, NC 28227
Direct Dial: (980) 321-7000
bshuford@abshuford.com

UNITED STATES BANKRUPTCY COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

IN RE:

MOUSSA BAMBA AND
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CERTIFICATE OF SERVICE

I hereby certify that I have this day served a copy of the *MOTION FOR AN ORDER PURSUANT TO BANKRUPTCY CODE §105 AND B. R. 9019 AUTHORIZING AND APPROVING SETTLEMENT OF CONTROVERSY AND NOTICE OF OPPORTUNITY FOR HEARING* by either Electronic Case Filing as indicated below and on those parties registered with the United States Bankruptcy Court, Western District of North Carolina ECF system to receive notices for this case or by depositing copies of same in the exclusive care and custody of the United States Postal Service, with proper postage thereto affixed to the parties listed herein below and on the attached Exhibit A:

Shelley K. Abel, U.S. Bankruptcy Administrator

VIA ELECTRONIC CASE FILING

Barbara L. White, Counsel for the Debtor

VIA ELECTRONIC CASE FILING

Moussa Bamba
Hortense Gisele Bamba
15119 Callow Forest Dr.
Charlotte, NC 28273

This the 4th day of September, 2019.

/s/ A Burton Shuford

A. Burton Shuford, NCBN 10035
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Mint Hill, NC 28227
Direct Dial: (980) 321-7000
bshuford@abshuford.com
Attorney for the Trustee

Label Matrix for local noticing
0419-3
Case 17-31607
Western District of North Carolina
Charlotte
Tue Sep 3 13:23:04 EDT 2019

American Express Bank, FSB
c/o Becket and Lee LLP
PO Box 3001
Malvern PA 19355-0701

BHG
PO Box 306005
Nashville, TN 37230-6005

(p)BANK OF AMERICA
PO BOX 982238
EL PASO TX 79998-2238

Bankers Healthcare Group c/o Pinnacle Bank
150 3rd Ave S, Ste 900
Nashville, TN 37201-2011

(p)CAPITAL ONE
PO BOX 30285
SALT LAKE CITY UT 84130-0285

Chase
PO Box 15123
Wilmington, DE 19850-5123

Comenity/AMRTV
PO Box 182789
Columbus, OH 43218-2789

Discover Bank
Discover Products Inc
PO Box 3025
New Albany, OH 43054-3025

Internal Revenue Service
PO Box 7346
Philadelphia, PA 19101-7346

Charlotte Division
401 West Trade Street
Charlotte, NC 28202-1633

BB&T Bankruptcy Section
100-50-01-51
PO Box 1847
Wilson, NC 27894-1847

Bank of America
4909 Savarese Circle
Tampa, FL 33634-2413

Bank of America, N.A.
P O Box 982284
El Paso, TX 79998-2284

Barclays Bank, DE
PO Box 8803
Wilmington, DE 19899-8803

Capital One Bank (USA), N.A.
PO Box 71083
Charlotte, NC 28272-1083

Citi
PO Box 6241
Sioux Falls, SD 57117-6241

Credit First, NA
6275 Eastland Rd.
Brookpark, OH 44142-1399

Fifth Third Bank
PO Box 740789
Cincinnati, OH 45274-0789

Ms. Obroh Zaguehi
206 Oakton Glen
Charlotte, NC 28262-1756

American Express
PO Box 981537
El Paso, TX 79998-1537

(p)BB AND T
PO BOX 1847
WILSON NC 27894-1847

Bank of America
PO Box 15796
Wilmington, DE 19886-5796

Banker's Healthcare Group
PO Box 332509
Murfreesboro, TN 37133-2509

(p)CITIBANK
PO BOX 790034
ST LOUIS MO 63179-0034

Carmel Family Physicians
PO Box 70826
Charlotte, NC 28272-0826

City-County Tax Collector
PO Box 31637
Charlotte, NC 28231-1637

(p)DISCOVER FINANCIAL SERVICES LLC
PO BOX 3025
NEW ALBANY OH 43054-3025

Internal Revenue Service
P.O. Box 7317
Philadelphia, PA 19101-7317

NAVIENT
C/O Navient Solutions, LLC.
PO BOX 9640
Wilkes-Barre, PA 18773-9640

NC Department of Revenue
PO Box 1168
Raleigh, NC 27602-1168

Navient
123 S. Justison St.
Ste. 30
Wilmington, DE 19801-5363

North Carolina Department of Revenue
Bankruptcy Unit
P.O. Box 1168
Raleigh, NC 27602-1168

(p)PENTAGON FEDERAL CREDIT UNION
ATTN BANKRUPTCY DEPARTMENT
P O BOX 1432
ALEXANDRIA VA 22313-1432

Pinnacle Bank
114 W. College St.
Murfreesboro, TN 37130-3501

State Farm
3 State Farm Plaza
N-4
Bloomington, IL 61791-0002

State Farm Bank
c/o Becket and Lee LLP
PO Box 3001
Malvern PA 19355-0701

Syncb/Amazon
PO Box 965015
Orlando, FL 32896-5015

Syncb/Haverty's
950 Forrer Blvd.
Kettering, OH 45420-1469

Syncb/Lowe's
PO Box 965005
Orlando, FL 32896-5005

Synchrony Bank
c/o PRA Receivables Management, LLC
PO Box 41021
Norfolk, VA 23541-1021

(p)TRULIANT FEDERAL CREDIT UNION
P O BOX 25132
WINSTON SALEM NC 27114-5132

U.S. Attorney's Office
227 W. Trade St., Suite 1700
Charlotte, NC 28202-1675

~~U.S. Bankruptcy Administrator Office
402 W. Trade Street
Suite 200
Charlotte, NC 28202-1673~~

US DEPARTMENT OF EDUCATION
CLAIMS FILING UNIT
PO BOX 8973
MADISON, WI 53708-8973

US Dept. of Education
PO Box 7860
Madison, WI 53707-7860

USAA
PO Box 47504
San Antonio, TX 78265

USAA Savings Bank
C O WEINSTEIN & RILEY, PS
2001 WESTERN AVENUE, STE 400
SEATTLE, WA 98121-3132

UW Credit Union
3500 University Ave.
Madison, WI 53705-2141

Wells Fargo
PO Box 14517
Des Moines, IA 50306-3517

Wells Fargo Bank, N.A.
Wells Fargo Card Services
PO Box 10438, MAC F8235-02F
Des Moines, IA 50306-0438

Wells Fargo Home Mortgage
PO Box 10335
Des Moines, Iowa 50306-0335

Wood Forest Bank
PO Box 790408
St. Louis, MO 63179-0408

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~~Barbara L. White
1101 South Boulevard
Suite 201
Charlotte, NC 28203-4266~~

~~Hortense Gisele Bamba
15119 Callow Forest Dr.
Charlotte, NC 28273-3453~~

~~Moussa Bamba
15119 Callow Forest Dr.
Charlotte, NC 28273-3453~~

BB&T
PO Box 2306
Wilson, NC 27894

Bank of America
PO Box 982238
El Paso, TX 79998

CBNA
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Elk Grove Village, IL 60007

Capital One
15000 Capital One Dr.
Richmond, VA 23238

Discover
PO Box 15316
Wilmington, DE 19850

Pentagon Federal Credit Union
PO Box 1432
Alexandra, VA 22313

Truliant
3200 Truliant Way
Winston-Salem, NC 27103

End of Label Matrix
Mailable recipients 56
Bypassed recipients 0
Total 56